

**REMARKS**

By this Amendment, claims 2-18 have been amended. Accordingly, claims 2-18 are pending in the present application.

Claims 2-18 stand rejected under 35 U.S.C. § 112, second paragraph. In response, the claims have been amended so as to be in full compliance with all §112 requirements. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Claims 2, 3, and 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,463,417 to Schoenberg ("Schoenberg") in view of U.S. Patent No. 6,149,585 to Gray ("Gray"). Claims 12 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schoenberg and Gray in further view of U.S. Patent No. 5,845,255 to Mayaud ("Mayaud"). Claims 4-6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schoenberg and Gray in further view of U.S. Patent No. 6,564,104 to Nelson *et al.* ("Nelson"). Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Schoenberg, Gray, and Mayaud in further view of Nelson. Claims 7-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schoenberg and Gray in further view of U.S. Patent No. 4,882,474 to Anderl *et al.* ("Anderl"). Claims 9, 14 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schoenberg and Gray in further view of U.S. Patent No. 5,781,442 to Engleson *et al.* ("Engleson"). Claims 17-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schoenberg in view of Anderl. Applicant respectfully traverses these rejections.

At the outset, Applicant again respectfully submits that Schoenberg is not a "patent granted on an application for patent by another filed in the United States before the invention by the Applicant for patent," as required by the statute. The application for patent filed by Schoenberg, U.S. Patent Application No. 09/557, 724, was filed on April 25, 2000, which is after the effective filing date of the present application, which priority has been acknowledged to JP

2000-113971, filed April 14, 2000. Applicant submitted a copy of the translation of the priority document with Applicant's previous response.

Further, any reliance on U.S. Provisional Application No. 60/183,857 (the "Provisional") is statutorily improper, because a patent cannot be granted from a U.S. Provisional Application, and further, the Examiner has not shown that the Provisional provides the 35 U.S.C. § 112, first paragraph, disclosure cited in the rejection, as required by 35 U.S.C. §111(b). Instead, the Examiner has relied upon references in U.S. Patent No. 6,463,417 as prior art without citing support in the Provisional Application.

Notwithstanding the foregoing, and even if the references in the Office Action from the Patent were supported in the Provisional Application, Applicant respectfully submits that Schoenberg, Gray, Nelson, Mayaud, Anderl, and Engleson, either separately or combined, do not render the pending claims unpatentable.

Among the limitations recited by independent claim 2 that are neither disclosed nor suggested in the prior art of record is the requirement for, "providing at least one of the plurality of hospital terminals with the patient user's medical treatment information from the database using the user ID, the second password, the hospital ID, and the hospital password as keys."

Paragraph 7 of the Office Action asserts that Schoenberg and Gray can be combined to teach this limitation. Specifically, the Office Action asserts that Schoenberg discloses using the user ID and the second password as keys, but admits that Schoenberg "does not expressly disclose providing a hospital ID and a hospital password via at least one of a plurality of terminals." The Office Action contends, however, that Gray discloses using the hospital ID and the hospital password as keys. According to the Office Action, "One would have been motivated to include [the hospital ID and hospital password] to provide an additional level of security limiting access between the organization's diagnostic program on an internal network."

Respectfully, this argument is flawed. First, Gray does not disclose the use of “a hospital ID, and the hospital password.” Second, the entry of a user ID and a password into Gray will not provide “the patient user’s medical treatment information,” because as the Office Action clearly acknowledges, Gray is a diagnostic program, which is a technology that differs greatly from the claimed invention. Finally, the cited security reason for combination is taken out of context, rendering the suggested motivation for the combination of the references moot.

In direct contrast to the specific requirements of independent claim 2, Gray does not recite “providing at least one of the plurality of hospital terminals with the patient user’s medical treatment information from the database using the...hospital ID, and the hospital password as keys.” Gray contemplates two secure entries into its system, neither of which utilize a hospital ID and a hospital password. One option is using a User ID 405 and a Password 407. See Gray Fig. 7; and col. 8, lines 27-30. The User ID 405 and Password 407 are assigned to an individual basis, not an organizational basis. The second option is using an Organization ID 408. See Gray Fig. 8; and col. 8, lines 29-33. The Organization ID 408 is a single key, entered in lieu of a User ID 405 and Password 407. See Gray Fig. 8. Thus, at no time will information be provided upon entry of a “hospital ID, **and** the hospital password as keys,” as required by claim 2. (Emphasis added).

Further, upon entry of either a User ID and Password or a lone Organization ID, Gray does not provide “the patient user’s medical treatment information,” as expressly required by claim 2. Gray is a diagnostic program and as such, it does not **store** “the patient’s medical treatment information.” Rather, it **provides** diagnostic information in order to **determine** the proper medical treatment for a patient.

In Gray, the patient enters information about his or her symptoms through a patient questionnaire. See Gray col. 9, lines 5-6. When the health care provider accesses the system, the patient data that has been collected can be viewed. See Gray col. 9, lines 42-45. Then, the health care provider can continue to answer questions so that the system can determine possible diagnoses. See Gray col. 9, lines 42-57. Only, once the system assists the health care provider

in reaching a diagnosis, the medical treatment can begin. At no time does Gray provide “the patient user’s medical treatment information,” as required by claim 2.

Finally, the Office Action’s suggested motivation for combining Gray and Schoenberg is incorrect. Page 7 of the Office Action asserts that it would be obvious to combine the references, “to provide an additional level of security,” and cites as support a portion of Gray that refers to using a firewall to restrict network traffic. Thus, Gray actually teaches the use of a firewall as an added security layer, rather than the use of additional credentials for the user. By reciting this alternative to additional credentials, Gray is actually teaching away from the combination suggested in the Office Action. Accordingly, and for at least the foregoing reasons, independent claim 2 is patentably distinguishable over Schoenberg in view of Gray.

Neither Nelson, Mayaud, Anderl, or Engleson cure the deficiencies of Schoenberg and Gray. None of these references teach or suggest “providing at least one of the plurality of hospital terminals with the patient user’s medical treatment information from the database using the user ID, the second password, the hospital ID, and the hospital password as keys” as required by independent claim 2. Accordingly, it is respectfully submitted that independent claim 2 patentably distinguishes over the art of record.

Claims 3-16 depend directly from independent claim 2 and include all the limitations found therein. Each of these dependent claims includes additional limitations which, in combination with the limitations of claim 2, are neither disclosed nor suggested in the art of record. Accordingly, claims 3-16 are likewise patentable.

Claims 17-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schoenberg in view of Anderl. Applicant respectfully traverses these rejections.

As noted above, Applicant respectfully submits that Schoenberg is not prior art against the present application, and incorporates herein fully the above arguments.

Independent claim 17 recites, “a second computer readable medium containing a program that when executed by a processor in the computerized system requests the second password when a person other than the patient user accesses the database containing the information.”

Page 19 of the Office Action admits that Schoenberg does not disclose this limitation. However, the Office Action argues that Anderl discloses this limitation. Applicant respectfully disagrees. Anderl teaches that the system disclosed therein requires “a user to identify himself by means of a password before access to files other than those at the public level is permitted.” Anderl, col. 6, lines 16-21. In other words, each person accessing the data must supply their own password. In contrast, claim 17 requires that when “a person other than the patient user accesses the database containing the information,” the processor executing the computer program stored on the second computer readable medium “requests the second password,” *i.e.*, the password supplied to the patient, and not a password supplied to the person other than the patient user. Therefore, it is respectfully submitted that the combination of Schoenberg and Anderl does not teach or suggest the limitations of independent claim 17, and claim 17 patentably distinguishes over the art of record.

Claim 18 depends directly from independent claim 17 and includes all of the limitations found therein, as well as additional limitations which, in combination with the limitations independent claim 17, are neither disclosed nor suggested in the art of record. Accordingly, claim 18 is likewise patentable.

In view of the foregoing, favorable consideration of the amendments to claims 2 and 17, allowance of the present application with claims 2-18 is respectfully and earnestly solicited. If the Examiner believes an interview would be of assistance, the Examiner is welcome to contact the undersigned at the number listed below.

Dated: July 29, 2009

Respectfully submitted,

/Richard LaCava/

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